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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,528	09/12/2003	Barry W. Jackson	12963-14	5313
1059	7590	09/08/2005	EXAMINER	
BERESKIN AND PARR 40 KING STREET WEST BOX 401 TORONTO, ON M5H 3Y2 CANADA			SAFAVI, MICHAEL	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/660,528

Applicant(s)

JACKSON ET AL.

Examiner

M. Safavi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Below, find an action supplemental to the previous Office action, mailed July 11, 2005, for U.S. application 10/660,528. The shortened statutory period for response is set to expire three months from the mailing date of this Office action.

The previous Office action of July 11, 2005 had inadvertently omitted the citation of U.S. Patent no. 1,813,338 to Botel et al.

### ***Election/Restrictions***

Claims 1-19 and 33-34 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 22, 2005.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the feature of *"the engaging surfaces maintain a separation between the strut attaching surfaces of the pairs of cords at least as large as the sum of the thickness of the heads of bolts used to bolt struts to the cords such that the pairs of cords may slide relative to each other without the heads...contacting"* must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

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replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 29 and 30 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not appear clear and

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complete as to the feature of "the engaging surfaces maintain a separation between the strut attaching surfaces of the pairs of cords at least as large as the sum of the thickness of the heads of bolts used to bolt struts to the cords such that the pairs of cords may slide relative to each other without the heads...contacting"

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 29-31 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear as to what is being defined by the language of claim 29. The feature of "the engaging surfaces maintain a separation between the strut attaching surfaces of the pairs of cords at least as large as the sum of the thickness of the heads of bolts used to bolt struts to the cords such that the pairs of cords may slide relative to each other without the heads...contacting" is not clearly described in the specification. Further, it is not apparent as to what bolts "bolts" refers in line 4 of claim 29. Is line 4 of claim 29 merely setting forth a possible assemblage?

Claim 31, it is not clear as to what is being defined by "the cords of at least one of the cords..." How does one determine a plurality of "cords" from within a single "cord"?

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 20, 21 are rejected under 35 U.S.C. 102(b) as being anticipated by**

**Botel et al.** Botel et al. discloses, Fig. 1, A truss comprising one or more truss members 1 forming a generally horizontal cord having a middle and a pair of opposed ends; a pair of diagonal members 9 having first and second ends and an adjustable member 10-14 oriented generally vertically and having an upper end and a lower end with the upper end of the adjustable member connected to the middle of the horizontal cord of the truss, (as along 13/14), the lower end of the adjustable member is connected to a first end of each of the diagonal members, (as along 10), and the second ends of the diagonal members are connected one to each of the ends of the horizontal cord, (as along 8).

**Claims 20 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated**

**by Foulds.** Foulds discloses, Figs. 2 and 5, A truss comprising one or more truss

members 7 forming a generally horizontal cord having a middle and a pair of opposed ends; a pair of diagonal members 1 having first and second ends and an adjustable member 4 oriented generally vertically and having an upper end and a lower end with the upper end of the adjustable member connected to the middle of the horizontal cord of the truss, and the lower end of the adjustable member is connected to a first end of each of the diagonal members, (as along 8), and the second ends of the diagonal members are connected one to each of the ends of the horizontal cord, (as along 2 and 3).

**Claims 23 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Beltz.** Beltz discloses, Figs. 3 and 7, A truss comprising a truss comprising a first truss section 10 having first section upper and lower generally horizontal cords 12, 14 separated by first section struts 40, 42, a second truss section 10 having second section upper and lower generally horizontal cords 12, 14 separated by second section struts 40, 42, wherein the second section upper and lower cords can be attached to first ends of the first section upper and lower cords in a plurality of locations 34,35 such that the truss may be assembled in a plurality of widths, col. 4, lines 9-12.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 24, 27-30, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beltz.** To have provided the Beltz truss assembly with any number of connected truss sections, including a third truss section, thus allowing formation of any particularly sized truss as maybe necessary, would have been obvious to one having ordinary skill in the art at the time the invention was made particularly since it has been well established that mere duplication of parts has no patentable significance unless a new and unexpected result is produced, *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960). Further, To have formed the Beltz truss assembly with the ends of the upper and lower cords having respective telescopic sliding connection one with another, (e.g., form one end of a cord smaller so as to slidably fit within a mating end of a longitudinally aligned cord), would have been obvious to one having ordinary skill in the art at the time the invention was made particularly since it has been well established that the use of a one piece construction instead of multi-piece assembly would be merely a matter of obvious engineering choice, *In re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965).

**Claims 22, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beltz in view of Botel et al.**

Arguments to each of Beltz and Botel et al. can be found above. To have provided the Beltz truss assembly with an adjustable member serving to vary the camber of an accompanying tension rod, as by having the upper end of the adjustable



member connected to the middle of the lower cord of the truss with the lower end of the adjustable member connected to the first end of each of the diagonal members, and the second ends of the diagonal members connected one to each of the distal ends of the truss sections, thus allowing a variance of tension within the resulting truss structure assembly, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Botel et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (571) 272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Safavi  
September 01, 2005



**MICHAEL SAFAVI**  
**PRIMARY EXAMINER**  
**ART UNIT 354**